

PERFORMANCE AUDIT
OF THE
REPORTING OF DRIVER LICENSE POINTS AND THE
COLLECTION AND DISPOSITION OF FINES AND FEES

September 1998

EXECUTIVE DIGEST

DRIVER LICENSE POINTS, FINES, AND FEES

INTRODUCTION	<p>This report, issued in September 1998, contains the results of our performance audit* of the Reporting of Driver License Points and the Collection and Disposition of Fines and Fees.</p>
AUDIT PURPOSE	<p>This performance audit was conducted as part of the constitutional responsibility of the Office of the Auditor General. Performance audits are conducted on a priority basis related to the potential for improving effectiveness* and efficiency*.</p>
BACKGROUND	<p>The judicial branch of government consists of three levels of courts and other judicial agencies. The courts include the Supreme Court, the Court of Appeals, and State trial courts*. Trial courts consist of circuit*, district*, probate*, and municipal courts* . There are 57 circuit courts, 101 district courts, 78 probate courts, and 5 municipal courts in Michigan.</p> <p>Each of the trial courts collects various assessments, fines, fees, and costs that are distributed on a monthly basis to other units of government.</p>

* See glossary on page 41 for definition.

Circuit courts hear felony cases, including felony drunk driving convictions (i.e., third or more offense), murder, manslaughter, negligent homicide, felonious driving, unlawfully driving away an automobile, and other felonies involving the use of an automobile. District courts hear civil infraction* cases and most traffic-related and drunk driving cases. In addition, district courts hear misdemeanor cases, except for cases when the offender* is age seventeen and under. These cases are heard by the probate courts. Probate courts also hear traffic-related misdemeanors for juveniles.

Section 257.732 of the *Michigan Compiled Laws* requires the clerk of the court* to submit an abstract* of the court record within 14 days to the Department of State upon conviction* of a traffic-related offense or felony involving a motor vehicle. Abstracts are submitted either electronically or manually. The abstract serves to update the State's master driver records* with an offender's conviction information.

**AUDIT OBJECTIVES,
CONCLUSIONS AND
NOTEWORTHY
ACCOMPLISHMENTS**

Audit Objective: To determine if trial courts correctly reported traffic-related convictions to the Department of State in a timely manner.

Conclusion: Our audit disclosed one material condition* related to recording Motor Vehicle Code convictions on the State's master driver records:

- A significant percentage of Motor Vehicle Code convictions and related suspensions were either not recorded or not recorded correctly on the master driver records (Finding 1).

* See glossary on page 41 for definition.

The State Court Administrator's Office (SCAO) agreed with the corresponding recommendation but disagreed with the finding. The Department of State agreed with the corresponding recommendation.

We also noted two reportable conditions* related to the timeliness of recording convictions on the master driver records and the plea under advisement* practices of the courts (Findings 2 and 3).

Noteworthy Accomplishments: The Judiciary has undertaken several initiatives in recent years to streamline the automated reporting of traffic violation convictions to the Department of State. Approximately 215 courts report convictions using one of three automated processes. Some courts provide conviction information directly to the Department of State through an electronic batch update process. Other courts provide batch process conviction information to the Department of State using a process developed by SCAO and the primary systems software services vendor. In addition, courts served by another vendor have automated the process of reporting conviction information with assistance from the primary vendor.

SCAO has issued data standards for use by trial courts and agencies that exchange data with the courts. SCAO, in conjunction with the Criminal Records Improvement Task Force, has also begun a project to develop a central court disposition reporting center which will provide a single process for electronically reporting criminal and traffic dispositions for State agencies' use.

* See glossary on page 41 for definition.

Audit Objective: To determine if trial courts correctly collected and distributed revenues from assessments, fines, fees, and costs.

Conclusion: Generally, the trial courts collected and distributed the correct amounts from assessments, fines, fees, and costs. However, our audit disclosed two reportable conditions related to revenues collected by the courts and testing of the accuracy of the courts' distribution of revenues (Findings 4 and 5).

**AUDIT SCOPE AND
METHODOLOGY**

Our audit scope was to examine traffic conviction records and assessments, fines, fees, and costs of selected courts. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Our audit procedures included testing pertinent court records for the period October 1, 1996 through October 31, 1997. Our methodology included interviewing staff and management from SCAO, the Department of State, the Department of Treasury, and the courts included in our site visits. We also reviewed applicable State statutes, the internal audit programs for the Supreme Court of Michigan, and policies and procedures to gain an understanding of the process of correctly reporting traffic convictions on the master driver records and the courts' collection of fines and fees and its distribution of revenues. We assessed the internal control structure* pertaining to processing traffic convictions and to collecting and distributing revenues.

* See glossary on page 41 for definition.

For our first objective, we selected a test group of traffic-related convictions for each of the courts included in our sample. We examined the courts' traffic-related conviction files, compared file information to conviction data recorded on the abstracts, and traced the convictions to the master driver records. Also, we assessed the courts' sentencing practices, including pleas under advisement, for impact on both fines and fees and on convictions reported to the Department of State.

For our second objective, we reviewed each court's distribution of revenue collected for a one-month test period for each of the courts included in our sample. We examined selected revenue transactions from our test month. We examined supporting documentation, identified the appropriations of fees assessed, and assessed the propriety of the distribution of revenues collected. Also, we traced daily receipts to deposits, performed analytical tests on selected accounts, determined the courts' methodologies for distributing revenues, and assessed the correctness of the courts' monthly distributions.

AGENCY RESPONSES

Our audit report includes 5 findings and 10 corresponding recommendations. The Judiciary agreed with all the recommendations but disagreed with one finding related to the recommendations. The Department of State agreed with the findings and recommendations addressed to it.

The agencies' preliminary responses to the recommendations in our report were taken from the agencies' written comments and/or oral discussions subsequent to our audit fieldwork. An Auditor General epilogue* follows the Judiciary preliminary response for

* See glossary on page 41 for definition.

one issue. Section 18.1462 of the *Michigan Compiled Laws* and Department of Management and Budget Administrative Guide procedure 1280.02 require the Department of State to develop formal responses to our audit findings and recommendations within 60 days after release of the audit report.

The Honorable Conrad L. Mallett, Jr.
Chief Justice of the Supreme Court of Michigan
G. Mennen Williams Building
and
The Honorable Candice S. Miller
Secretary of State
Treasury Building
and
Mr. John D. Ferry, Jr.
State Court Administrator
Supreme Court of Michigan
309 N. Washington Square
Lansing, Michigan

Dear Chief Justice Mallett, Secretary Miller, and Mr. Ferry:

This is our report on the performance audit of the Reporting of Driver License Points and the Collection and Disposition of Fines and Fees.

This report contains our executive digest; description of practices; audit objectives, scope, and methodology and agency responses; comments, findings, recommendations, and agency preliminary responses; and a glossary of acronyms and terms.

Our comments, findings, and recommendations are organized by audit objective. The agency preliminary responses were taken from the agencies' responses subsequent to our audit fieldwork.

We appreciate the courtesy and cooperation extended to us during this audit.

Sincerely,

Thomas H. McTavish, C.P.A.
Auditor General

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Description of Practices

The judicial branch of government within the State of Michigan is authorized by Article 6 of the State Constitution. The judicial branch consists of three levels of courts and other judicial agencies, including the State Court Administrator's Office (SCAO). The courts include the Supreme Court, the Court of Appeals, and State trial courts. Trial courts consist of circuit, district, probate, and municipal courts.

State Court Administrator's Office

The constitutional office of the State Court Administrator was established to aid the Supreme Court in administering the State trial courts (Article 6, Section 3 of the State Constitution). Under the general direction of the Supreme Court, the State Court Administrator is responsible for supervising and examining the administrative methods and systems employed in the offices of the courts, including the offices of the clerks, and for making recommendations for improvement to the Supreme Court (Michigan Court Rule 8.103).

SCAO provides management assistance to over 582 judges of the 241 trial courts and to trial court staff on matters relating to trial court management. SCAO collects, analyzes, and publishes management information regarding operations of trial courts. Also, SCAO assists in evaluating court rules and pending legislation affecting the administration of courts and proposes changes to rules and statutes when appropriate.

SCAO advises and assists trial courts in the selection, acquisition, installation, programming, and operation of automated data processing systems. Also, SCAO develops and maintains manuals for trial courts, develops forms for use in trial courts, and performs other functions related to the administration of the courts.

The courts' judicial salaries are fully funded by State appropriations. All courts receive funding for operations from the local court funding unit*. In addition, the State distributes money to courts and local court funding units that fund their local trial courts. All circuit, probate, and 1st and 2nd class district courts receive appropriations from the

* See glossary on page 41 for definition.

county governmental unit. In addition, 3rd class districts and municipal courts are funded by cities and townships.

Each of the different courts performs a certain role within the judicial branch according to the jurisdiction given to it by the State Constitution and by statute:

Circuit Courts

Circuit courts are generally referred to as the trial court of general jurisdiction because of their broad powers. Circuit courts have jurisdiction over all actions except those given by State law to other courts. Generally speaking, circuit courts have original jurisdiction in all civil cases involving more than \$25,000; in all felony criminal cases; in certain serious misdemeanors; and in all domestic relations cases, such as divorce and paternity actions. Effective January 1, 1998, the juvenile divisions of probate courts became part of the family division of circuit courts. Circuit courts also hear cases appealed from lower courts. The State is divided into judicial circuits along county lines. As of October 31, 1997, there were 57 circuit courts with a total of 210 judges.

District Courts

District courts have exclusive jurisdiction over all civil litigation up to \$25,000 and handle garnishments, eviction proceedings, land contract and mortgage foreclosures, all civil infraction violations, and other proceedings. In addition, district courts also handle both preliminary examinations in felony cases and all misdemeanors for which punishment does not exceed one year in jail. District courts include small claims divisions and may make use of magistrates. Magistrates may set bail; accept guilty pleas; and set sentences for traffic, motor carrier, snowmobile, dog, game, and marine law violations.* Magistrates may, at the direction of the chief judge, perform other duties allowed by statute. District courts cover areas defined by statute, which include cities, townships, and other municipalities. As of October 31, 1997, there were 101 district courts with a total of 259 judges.

* See glossary on page 41 for definition.

Probate Courts

Probate courts have exclusive jurisdiction over juvenile proceedings and adoptions as well as supervision of the probating of wills and the administration of estates and trusts. Probate courts also hear cases pertaining to guardianships and conservatorships for minors and adults. Prior to January 1, 1998, probate courts had juvenile divisions which handle cases of delinquent, neglected, or abused children. The juvenile divisions are now part of the family division of circuit courts. Probate courts are responsible for hearing cases in one or more counties. As of October 31, 1997, there were 78 probate courts and 107 judges.

Reporting of Traffic Conviction Information to the Department of State

Most traffic-related and drunk driving cases are heard by district courts. Probate courts hear traffic-related misdemeanors and felonies for juveniles. Circuit courts hear felony cases, including felony drunk driving convictions (i.e., third or more offense), murder, manslaughter, negligent homicide, felonious driving, unlawfully driving away an automobile, and other felonies involving the use of an automobile.

When an individual is convicted of a traffic-related offense or a felony involving a motor vehicle, Section 257.732 of the *Michigan Compiled Laws* requires the clerk of the court to submit an abstract with information regarding the conviction within 14 days of conviction to the Department of State. Abstracts are submitted either electronically or manually. The abstract serves to update the State's master driver records with an offender's conviction information. In district and probate courts, the clerk of the court is appointed by the court judges. In circuit courts, the county clerk serves as the clerk of the court (Section 600.571 of the *Michigan Compiled Laws*).

State's Master Driver Records

The Department of State is responsible for establishing and maintaining the State's master driver record system. This computerized system is the main source of driver license information, including traffic-related convictions. The Department ensures that information included in abstracts received from the courts is recorded on the master driver records. The Department has established procedures for reporting convictions, for providing manual editing of abstracts received, and for returning abstracts with errors to the courts.

The Department of State monitors the driving performance of Michigan motorists based on information recorded on the State's master driver records. The Department identifies drivers with the greatest likelihood of being in an accident; intervenes with information, education, and disciplinary actions to reduce unsafe driving habits; and revokes licenses of drivers who are unable to improve their driving to ensure a reasonable level of safety for others.

Fines and Fees

Each of the trial courts collects various assessments, fines, fees, and costs that are distributed on a monthly basis to other units of government. At each court, our review pertained only to those assessments, fines, fees, and costs appropriate for that type of court (circuit, district, or probate). Our review included the collection and distribution of revenue associated with:

- Civil filing fees
- Civil fines
- Conviction costs
- Driver license reinstatement fees
- Judgment fees for game and fish violations
- No proof of insurance fines
- Penal and local ordinance fines
- Communities Dispute Resolution Fund
- Court Equity Fund
- Crime Victims Rights Fund
- Highway Safety Fund
- Judges' Retirement Fund
- Legislative Retirement Fund
- Michigan Justice Training Fund
- Secondary Road Patrol and Training Fund
- State Court Fund
- State Forensic Laboratory Fund

Audit Objectives, Scope, and Methodology and Agency Responses

Audit Objectives

Our performance audit of the Reporting of Driver License Points and the Collection and Disposition of Fines and Fees had the following objectives:

1. To determine if trial courts correctly reported traffic-related convictions to the Department of State in a timely manner.
2. To determine if trial courts correctly collected and distributed revenues from assessments, fees, fines, and costs.

Audit Scope

Our audit scope was to examine traffic conviction records and assessments, fines, fees, and costs of selected courts. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Audit Methodology

Our audit procedures were performed between July 1997 and February 1998 and included testing pertinent court records for the period October 1, 1996 through October 31, 1997.

Our methodology included interviewing staff and management from the State Court Administrator's Office (SCAO), the Department of State, the Department of Treasury, and the courts included in our site visits. We also reviewed applicable State statutes, the internal audit programs for the Supreme Court of Michigan, and policies and procedures to gain an understanding of the process of correctly reporting traffic convictions on the master driver records and the courts' collection of fines and fees and its distribution of revenues. We assessed the internal control structure pertaining to processing traffic convictions and to collecting and distributing revenues.

We visited 20 circuit, district, and probate courts in the following 10 counties: Bay, Berrien, Clare, Clinton, Ingham, Ionia, Newaygo, Oakland, Ottawa, and Wayne. Our selections were based on dollar volume of activity and a cross section of vendors providing systems software packages to the courts. At the request of SCAO, we excluded from our selection process those courts that were participating in a multi-court project.

For our first objective, we selected a test group of traffic-related convictions for each of the courts included in our sample. To ensure that the courts had sufficient time to report traffic-related convictions to the Department of State prior to our testing, we selected our test items from citations* occurring between October 1, 1996 and March 31, 1997. We examined the courts' traffic-related conviction files, compared file information to conviction data recorded on the abstracts, and traced the convictions to the master driver records. Also, we assessed the courts' sentencing practices, including pleas under advisement, for impact on both fines and fees and on convictions reported to the Department of State.

For our second objective, we reviewed each court's distribution of revenue collected for a one-month test period for each of the courts included in our sample. We examined selected revenue transactions from a test month occurring between March and June 1997. We examined supporting documentation, identified the appropriations of fees assessed, and assessed the propriety of the distribution of revenues collected. Also, we traced daily receipts to deposits, performed analytical tests on selected accounts, determined the courts' methodologies for distributing revenues, and assessed the correctness of the courts' monthly distributions.

Agency Responses

Our audit report includes 5 findings and 10 corresponding recommendations. The Judiciary agreed with all the recommendations but disagreed with one finding related to the recommendations. The Department of State agreed with the findings and recommendations addressed to it.

The agencies' preliminary responses to the recommendations in our report were taken from the agencies' written comments and/or oral discussions subsequent to our audit

* See glossary on page 41 for definition.

fieldwork. An Auditor General epilogue follows the Judiciary preliminary response for one issue. Section 18.1462 of the *Michigan Compiled Laws* and Department of Management and Budget Administrative Guide procedure 1280.02 require the Department of State to develop formal responses to our audit findings and recommendations within 60 days after release of the audit report.

COMMENTS, FINDINGS, RECOMMENDATIONS, AND AGENCY PRELIMINARY RESPONSES

REPORTING OF TRAFFIC-RELATED CONVICTIONS

COMMENT

Background: Section 257.732 of the *Michigan Compiled Laws* requires the clerk of the court to keep records of each citation issued for a violation of the Michigan Vehicle Code*. It also requires the clerk of the court to submit an abstract for each conviction of a Michigan Vehicle Code violation to the Department of State within 14 days of the conviction. The Department is required by statute (Section 257.320a of the *Michigan Compiled Laws*) to record the conviction and other information on the State's master driver records within 10 days after receiving a properly prepared abstract from the court or a systems software services vendor.

When the Department receives the abstract, it posts the conviction to the State's master driver records. The Department assigns the corresponding points for each conviction to individual driver records. Points remain on the driver records for 24 months from the date of conviction. When a court takes longer than 24 months to report a conviction to the Department, only the conviction will appear on the master driver records. Some convictions include mandatory suspensions. The mandatory suspension period begins when the conviction is reported to the Department. Most convictions are kept on the master driver records for 7 years before being removed by the Department. Alcohol related convictions are removed after 10 years.

An individual can be convicted of more than one violation during the same incident* . The court must identify each conviction as a "same incident" conviction on the abstract to ensure that the Department records points on only the highest point conviction. The other convictions appear on the master driver records but do not have points assigned to them. The Department is statutorily required to ensure that the conviction with the most points is the only conviction with actual points on the individual's driver record.

* See glossary on page 41 for definition.

The State Court Administrator's Office (SCAO) has provided training to the courts on how to submit abstracts by tape to minimize the number of manually transmitted abstracts sent to the Department. In addition, the primary vendor of systems software packages has provided a service that is available to all of the courts. This vendor converts other courts' abstracts to a format accessible by the Department. Approximately 215 courts either use the services of the primary vendor or submit abstracts to the primary vendor for conversion. This vendor sends a master tape of abstracts to the Department on a weekly basis.

Audit Objective: To determine if trial courts correctly reported traffic-related convictions to the Department of State in a timely manner.

Conclusion: Our audit disclosed one material condition related to recording Motor Vehicle Code convictions on the State's master driver records. A significant percentage of Motor Vehicle Code convictions and related suspensions were either not recorded or not recorded correctly on the master driver records. We also noted two reportable conditions related to the timeliness of recording convictions on the master driver records and the plea under advisement practices of the courts.

Noteworthy Accomplishments: The Judiciary has undertaken several initiatives in recent years to streamline the automated reporting of traffic violation convictions to the Department of State. Approximately 215 courts report convictions using one of three automated processes. Some courts provide conviction information directly to the Department of State through an electronic batch update process. Other courts provide batch process conviction information to the Department of State using a process developed by SCAO and the primary systems software services vendor. In addition, courts served by another vendor have automated the process of reporting conviction information with assistance from the primary vendor.

SCAO has issued data standards for use by trial courts and agencies that exchange data with the courts. SCAO, in conjunction with the Criminal Records Improvement Task Force, has also begun a project to develop a central court disposition reporting center which will provide a single process for electronically reporting criminal and traffic dispositions for State agencies' use.

FINDING

1. Recording of Convictions on the Master Driver Records

The master driver records did not contain a significant percentage of Motor Vehicle Code convictions and related suspensions. Also, the courts did not correctly report all Motor Vehicle Code convictions to the Department of State.

We examined the case files associated with 543 convictions from 20 circuit, district, and probate courts. To verify that the courts correctly reported Michigan Vehicle Code convictions and related suspensions to the Department, we traced conviction information included in the case files to the master driver records maintained by the Department. The Department's records indicate that it processed approximately 1.4 million convictions during the period December 26, 1996 through December 24, 1997. Using the Department's Statewide data, we projected the results of our testing on a Statewide basis in Table 1:

Table 1: Statewide Reported Transactions¹

	<u>Audit Sample Results</u>			<u>Statewide Projections</u>		
	<u>Transactions Tested</u>	<u>Number of Errors</u>	<u>Error Rate</u>	<u>Statewide Errors²</u>	<u>Statewide Population</u>	<u>Error Rate</u>
Unrecorded Traffic Related Convictions/Actions						
Circuit court	49	19	38.8%	5,627	14,511	
District court	397	15	3.8%	52,659	1,393,707	
Probate court	97	22	22.7%	2,741	12,085	
Total	543	56		61,027 ³	1,420,303	4.30%
Unrecorded Convictions/Actions Which Would Result in a Department-Initiated Mandatory Driver License Suspension ⁴						
Circuit court	19	19	100.0%	5,627	5,627	
District court	15	8	53.3%	28,085	52,659	
Probate court	22	7	31.8%	872	2,741	
Total	56	34		34,584 ³	61,027	56.67%
Convictions Reported Incorrectly to the Department						
Circuit court	49	3	6.1%	888	14,511	
District court	397	19	4.8%	66,701	1,393,707	
Probate court	97	3	3.1%	374	12,085	
Total	543	25		67,963 ³	1,420,303	4.79%

¹ These errors do not include delayed convictions.

² Statewide projected number of driver records with errors.

³ If the 14 convictions from one circuit court (see item a.) were removed from the computations, the Statewide Errors (Projected) for: Unrecorded Traffic Related Convictions/Actions would have decreased from 61,027 to 56,881 and Unrecorded Convictions/Actions Which Would Result in a Department-Initiated Mandatory Driver License Suspension would have decreased from 34,584 to 30,438. Convictions Reported Incorrectly to the Department would not change.

⁴ The convictions requiring mandatory suspension are also included in Unrecorded Traffic Related Convictions/Actions.

The Statewide projection is a weighted average computation using our sample error rates for circuit, district, and probate courts. In computing the Statewide projections, it is assumed that the Statewide error rates are the same as the error rates in our sample populations.

In our testing we found:

- a. Fifty-three convictions and three related actions from 16 courts were not recorded on the master driver records. In 14 instances, the courts informed SCAO that they had submitted the abstracts. In many cases, there was no trail to identify whether the courts, the systems software services vendors, or the Department failed to record the conviction information on the master driver records. These convictions included the following offenses: violating the basic speed law, drunk driving, drug crimes, disobeying a traffic signal, and no proof of insurance. The court initiated actions were for failure to appear in court and failure to comply with a judgment. Three actions and 31 of the 53 convictions would have resulted in the Department suspending the offenders' driver licenses if the convictions and actions had been recorded on the master driver record.

One circuit court, with 14 of the 53 convictions, had not submitted any abstracts for felony convictions (third or subsequent drunk driving offenses and drug crimes) in over a year. The court administrator informed us that she did not have time to train staff on how to transmit abstracts to the Department. In each of the 14 convictions, the offender would have met the Department's criteria for license suspension if the court had reported the conviction to the Department.

- b. The courts did not correctly report 25 convictions to the Department.

In 12 of the 25 instances, 7 courts recorded the wrong offense codes on the abstracts submitted to the Department. Because the wrong offense codes were posted to the master driver records, some offenders received more points, others received less points, and some had no change in the number of points recorded on the driver records.

In 10 of the 25 instances, 7 courts did not identify "same incident" on the abstracts. Because the court did not record these convictions as "same incident" on the abstracts, the Department recorded points for each conviction on the driver records.

In 2 of the 25 instances, 2 courts processed an additional conviction unrelated to the original citation. The individuals were convicted of offenses which were reported to the Department and recorded on the master driver records. We compared the citations noted on the original tickets to the convictions recorded on the master driver records. We determined that the courts had submitted a second (i.e., "same incident") conviction to the Department for posting on the offenders' driver records. The second conviction was not documented anywhere on the original ticket or in the case file. Based on the courts' documents, there was no basis for reporting the second conviction to the Department.

In 1 of the 25 instances, a court processed a conviction that should not have been submitted to the Department. The individual was convicted of a charge that courts are required to report only if a motor vehicle was used in committing the offense (malicious destruction of property). In this instance, the offender did not use a motor vehicle in committing the offense. However, the court reported this conviction to the Department. This individual's driver record inaccurately includes the conviction of malicious destruction of property while using a motor vehicle.

- c. In 6 instances, 4 courts did not correctly identify convictions requiring mandatory driver license suspension on the abstract forms. The Statewide projection for these 6 instances would be 11,249. The courts' failure to identify mandatory driver license suspensions on the abstract forms delayed recording the suspensions on the State's master driver records. These omissions were later identified and corrected by the Department during its periodic edit checks. For certain convictions (including drunk driving, drug crimes, and fleeing and eluding a police officer) the court must indicate a mandatory suspension on the abstract form.

When abstracts are not recorded on the master driver records and when the courts either submit the abstracts with errors or are not timely in submitting abstracts to the Department, the omissions, errors, and delays affect the accuracy of the State's master driver records. The State's 7.7 million master driver records provide critical information regarding crashes, convictions, and corrective measures initiated by the Department.

The Department cannot identify all problem drivers needing intervention if the courts do not report all convictions to the Department. The courts, the Department, and insurance companies each rely on the accuracy of the State's master driver records to carry out their responsibilities. Inaccurate or missing conviction data may affect public safety.

RECOMMENDATIONS

We recommend that SCAO and the Department of State take steps to ensure that all Motor Vehicle Code convictions and related suspensions are recorded on the master driver records.

We also recommend that SCAO take steps to ensure that the courts correctly report all Motor Vehicle Code convictions to the Department of State.

AGENCY PRELIMINARY RESPONSES

JUDICIARY

SCAO agreed with these recommendations but disagreed with the finding related to the recommendations. SCAO believes that it is inappropriate and misleading and that it skews the resulting Statewide projection to include one circuit court which failed to report. There is no evidence that what occurred in this court is consistent throughout the State. Thus, SCAO feels that it is an aberration that should not be included in the general findings. Exclusion of data from this court would decrease a projected Statewide rate of unreported convictions from 4.30% to 4.05%.

SCAO will continue to work with the Department and the courts to ensure that all Motor Vehicle Code convictions and related suspensions are recorded on the master driver records. Both SCAO and the Department have limited staff with limited time to provide regular, comprehensive training to court staff on abstracting.

Different requirements for taking licensing action by the courts or the Department on various traffic offenses creates confusion. The resulting errors and omissions that affect the Department's licensing actions would be eliminated if pending legislation to move all licensing action to the Department becomes law.

DEPARTMENT OF STATE

The Department agreed with the recommendation related to it. The courts do not know if they are timely in their submissions. The Department will work with SCAO to find a mechanism to identify when courts have submitted conviction information to their vendor, when the vendor has sent it to the Department, and when the Department has updated the driver records. Currently, such information is not available.

AUDITOR GENERAL EPILOGUE TO JUDICIARY RESPONSE

After identifying one circuit court in our testing which did not report any conviction information to the Department, we compared a listing of those courts reporting convictions to the Department to a listing of all courts. We identified three other circuit court offices and one probate court office which did not report conviction information to the Department of State. Thus, we did not judge it to be appropriate to eliminate the one nonreporting court in our sample from our analysis. We informed SCAO of these four nonreporting courts. The courts selected for our testing met our testing criteria. We did not revise our selection of courts to include these four courts in either our testing or reported statistics. We have presented the Statewide projections both with the convictions from this circuit court in Table 1 and without those convictions in a footnote to Table 1.

FINDING

2. Timeliness of Recording Convictions on the Master Driver Records

Convictions were not always posted to the master driver records in a timely manner.

We reviewed the Department of State's "Convictions by Court Report" (DR 5315) for the period December 1996 through June 1997 for the 20 courts in our testing. This report provides information by court regarding the length of time it takes to post convictions to the master driver records. We summarized the quantitative and

statistical data from the DR 5315 report for the circuit, district, and probate courts in our testing and determined the percentage of convictions taking longer than 30 days to post to the State's master driver records. Using the conviction and posting dates of our test items, we computed the range of days from conviction to posting for the circuit, district, and probate courts. We also projected the results of our testing on a Statewide basis with the results summarized in Table 2 below:

Table 2: Projections of Convictions Taking Longer Than 30 Days to Post to Master Driver Records

Courts by Type	Number of Courts Tested	Percentage of Convictions Taking Longer Than 30 Days to Post to Master Driver Records ¹	Range of Days to Post Convictions to Master Driver Records ⁴	Average Biannual Number of Convictions at All Courts ²	Estimate of Annual Number of Convictions Taking Longer Than 30 Days to Post to Master Driver Records ³
Circuit	3	37.9%	6 - 163	4,590	3,479
District	12	10.9%	2 - 196	672,879	146,688
Probate	5	69.7%	8 - 132	4,679	6,523

¹ DR 5315 data for 20 test courts.

² Per DR 5315 report.

³ Product of column 3 and column 5 times 2.

⁴ Per testing from 20 courts.

Most courts submit the abstracts electronically to a systems software services vendor who edits and formats the conviction data. The vendor then submits the abstracts to the Department of State. The Department also edits the abstracts for errors before posting them to the master driver records.

We were able to determine the conviction date, the date the court forwarded the abstract to either the vendor or the Department, and the date the Department posted the conviction to the master driver records. The courts' records did not identify the dates that the vendor submitted the abstracts to the Department or the dates that the Department received the abstracts from the vendor. The courts informed us that they do not monitor the turnaround time of the vendors. Although the Department captures the date it receives an abstract, this date is not easily retrievable. It was not feasible for us to determine where delays occurred because neither the courts nor the Department monitored compliance for submitting and recording abstracts within established time frames.

Our testing identified three circuit courts that took an average of 21 days to send abstracts of felony convictions to their vendors for processing. The courts are statutorily required to submit abstracts of convictions to the Department within 14 days.

State law enforcement and governmental agencies extensively rely on accurate and complete conviction information on the State's master driver records. Thus, it is essential that all court abstracts are recorded on the master driver records in a timely manner.

RECOMMENDATIONS

We recommend that the Department of State, SCAO, and courts ensure that convictions are posted to the master driver records in a timely manner.

We also recommend that the Department of State monitor compliance for submitting and recording abstracts within established time frames.

AGENCY PRELIMINARY RESPONSE

JUDICIARY

SCAO agreed with these recommendations. Both SCAO and the trial courts have made significant progress in automating the reporting process of convictions to ensure timely reporting, including the implementation of a cooperative agreement with a trial court automation provider to receive and transmit traffic data to the Department. SCAO will continue to work with the courts and the Department to emphasize the importance of timely reporting and posting. Timeliness would be enhanced if SCAO and the courts were permitted to submit their abstracts in the same electronic format currently provided to a few courts through their vendor.

Some abstracts are not posted timely because the Department must create a master driver record for offenders who have never had a driver license (mostly juvenile offenders). Posting is also delayed because the Department reviews selected convictions prior to posting corresponding licensing sanctions; SCAO has suggested that the Department post the conviction prior to the review.

DEPARTMENT OF STATE

The Department agreed with these recommendations. Both the receipt and return of the vendor tapes is a manual log-in process. The Department posts abstracts within 7 days of receipt unless the edit routine identifies errors in the abstracts. The Department is currently working through a series of workshops on court information systems to address some of the issues related to timely filing and processing of court information. The Department uses the DR 5315 report to monitor compliance for submitting and recording abstracts within established time frames and will share this report with SCAO so that SCAO may research reasons for noncompliance and work with the courts and vendors on corrective action.

SCAO has asked to establish a direct electronic communication line between one vendor and the Department. Currently, this connection would have limited value because conviction data is submitted to a holding file, stored, then transferred to tape, and later batch processed with other conviction data. The Department supports the concept of such a direct submission link between all submitters of conviction data and the Department. However, current programming does not allow for processing of multiple sources of electronically transmitted data to the Department.

The Department agrees that some abstracts do not include a driver license number and are processed manually, which delays posting information to the records. The Department hopes to revise its computer programming so that the mainframe does an automatic driver license number look-up on cases with no license number, which should reduce some processing delays. Courts will be encouraged to check the system to obtain missing driver license numbers before submitting abstracts, thus eliminating this posting delay.

FINDING

3. Plea Under Advisement Practices of the Courts

Nine courts had established practices which resulted in the disposition of traffic violation convictions without reporting the conviction to the Department of State. Six of these courts collected the fines, fees, and costs at the beginning of the delayed sentencing period and did not refund the money when cases were dismissed.

Prior to sentencing, several courts regularly received requests from the offender, the police officer, the prosecutor, or the offender's legal counsel for the court to take the conviction under advisement. When courts agreed to sentence offenders with pleas under advisement, the offenders admitted responsibility for the moving (traffic) violations and the courts agreed to not place the convictions on the offenders' driver records for a specified time period. The courts did not report these convictions to the Department. If, during that time period, the offenders were not convicted of any other moving violations, the courts would dismiss* the convictions. The courts did not report the dismissed convictions to the Department. The dismissed convictions never appeared on the offenders' driver records. The courts informed us that when offenders did not comply with the sentencing terms, the courts reported the convictions to the Department. The convictions and corresponding points would then appear on the offenders' driver records. Some courts used other terminology, including "delayed sentencing agreements* " to refer to these pleas under advisement.

Nine (8 district courts and 1 probate court) of the 20 courts in our testing provided some type of plea under advisement that delayed the reporting of convictions to the Department for a specified time period. In the 9 courts, we found:

- a. Three courts assessed fines, fees, and costs to only those offenders who did not complete their sentencing period without additional convictions.
- b. Six courts collected fines, fees, and costs at the beginning of the delayed sentencing period, after the offender admitted responsibility, but did not refund fines, fees, and costs when the convictions were later dismissed (see Finding 4). In 3 of the 6 courts, we also found:
 - (1) One district court required offenders to attend a driver improvement course at the offenders' expense and to perform community service as part of the plea under advisement stipulations.
 - (2) One district court assessed offenders with both program costs of an amount equal to the costs associated with the original moving violation

* See glossary on page 41 for definition.

and an additional \$15 audit fee to participate in the plea under advisement program.

- (3) One district court used two practices that avoided reporting traffic violations to the Department. For the first practice, we found two examples in which the court accepted pleas under advisement with delayed sentencing periods for alcohol-related convictions. In the second practice, the court reduced moving violations to nonmoving (parking) violations. In most of these cases, the offenders would have received points on their driver records if they had been convicted of the original moving violations. However, because parking violations do not have points associated with them, the offenders had neither the violation nor the points placed on the master driver records.
- c. Four district courts did not always perform follow-up of the offenders' driver records at the end of the delayed sentencing period. These pleas under advisement remained open after the 6- to 12-month delayed sentencing periods had expired. One district court had not performed any follow-up on 391 pleas under advisement that ranged from 2 to 13 years old. The points associated with these convictions ranged from 0 to 6 points. These convictions included: reckless driving, running a red light, speeding, failure to stop for a school bus, and open intoxicants. When the courts take longer than 2 years to report convictions to the Department, the points associated with the convictions do not appear on the master driver records.

In our testing, we found examples of the courts approving pleas under advisement for the following: violating the basic speed law, careless driving, drag racing, tailgating, disobeying a traffic signal or stop sign, and refusal to take a preliminary breath test.

Courts offering pleas under advisement do not report these convictions to the Department for inclusion in the State's master driver records. If an offender with a plea under advisement in one court committed a moving violation in another court's jurisdiction, the second court would have little chance of knowing about the plea under advisement because there is no central registry of all courts' pleas under advisement. If a court has knowledge of other moving violations at the time of

sentencing, the court may impose a more severe moving violation conviction (instead of reducing a charge).

SCAO informed us that it was not aware of specific statutory authority supporting the practice of offering pleas under advisement for moving violation convictions.

Court practices that avoid reporting traffic convictions to the Department directly impact the accuracy of the master driver records and jeopardize the Department's ability to identify, in a timely manner, those drivers with the greatest likelihood of being in an accident. The Department's intervention efforts, which are triggered by several factors (including the number of cumulative points on a driver license), cannot identify all problem drivers needing intervention when the courts do not report all convictions to the Department. Without accurate and timely information recorded on the master driver records, the Department may not take intervention in a timely manner.

RECOMMENDATIONS

We recommend that SCAO work with the courts to discontinue practices of not reporting traffic violation convictions to the Department of State.

We also recommend that SCAO determine the appropriate disposition of fines, fees, and costs when traffic violation convictions are later dismissed.

AGENCY PRELIMINARY RESPONSE

JUDICIARY

SCAO agreed with these recommendations. SCAO has communicated, and will continue to communicate, to the courts its requirement to report traffic violation convictions to the Department. Without specific statutory authority, those programs which provide for payment of fines, fees, and costs without entry of a conviction must be amended to eliminate these payments. SCAO will continue to support legislative direction for under advisement practice.

SCAO agreed that many parties participate in plea bargaining that provides for a deferral of a case for a period of time and that, after that period, if the defendant has no other violations, the case is dismissed. In cases of dismissal, no reporting of a conviction is required. To the extent that the practice is not managed well and

cases are deferred without follow-up, SCAO agrees that the practice requires better case management. SCAO will also continue to assist in seeking a legislative review of this diversion practice.

In order to be effective, programs which are contingent on no prior use of diversion programs require a central recording place for these kinds of actions. This can only be cured by legislation.

COLLECTION AND DISTRIBUTION OF FINES, FEES, ASSESSMENTS, AND COSTS

COMMENT

Background: The courts collect moneys from criminal and ordinance convictions, moving traffic and nonmoving (parking) violations, filing fees, garnishments, restitution, and other civil infractions. Moneys collected can be from assessments, fines, fees, or court costs.

Many of the assessments, fines, fees, and costs collected by the courts must be distributed to entities other than the local court funding unit. The fines, fees, and costs are established by statute, or local ordinance, and are due to the State, libraries, counties, cities, villages, crime victims, and judgment recipients. This money is distributed on a monthly basis to the appropriate entities and individuals.

Moving violation convictions include at least \$24 in statutory assessments due to various State funds. The \$24 in statutory assessments is distributed to the Judges' Retirement Fund, Legislative Retirement Fund, Court Equity Fund, State Court Fund, Michigan Justice Training Fund, Secondary Road Patrol and Training Fund, and Highway Safety Fund. Prior to October 1, 1996, part of the \$24 was distributed to the State General Fund. Moving violations also include fines established by either State statutes or local ordinances. Fines from violations of State statutes are distributed to libraries at the State and local level.

Most moving violation convictions result in points on a driver record. Parking violations do not result in points on a driver record. Most parking violations are considered

violations of local ordinances. Fines from violations of local ordinances are distributed to the local governmental unit and the local court funding unit. Parking violations do not include the \$24 in statutory assessments.

Audit Objective: To determine if trial courts correctly collected and distributed revenues from assessments, fines, fees, and costs.

Conclusion: Generally, the trial courts correctly collected and distributed the correct amounts from assessments, fines, fees, and costs. However, our audit disclosed two reportable conditions related to revenues collected by the courts and testing of the accuracy of the courts' distribution of revenues.

FINDING

4. Revenues Collected by the Courts

Several trial courts were not aware or did not fulfill their statutory responsibilities related to the collection of certain statutory assessments, fines, fees, and costs due to other entities, including the State and the local court funding unit.

Eleven of the 20 courts in our testing did not always collect the correct amount of statutorily required assessments, fines, fees, and costs (also, see Finding 3). We noted:

- a. One district court routinely reduced moving (traffic) violations to nonmoving (parking) violations.

When this court reduced the moving violations to parking violations, it did not assess the offender the \$60 parking violation fine that was posted on the court's fee schedule. Instead, the court assessed the offender an amount equal to the costs associated with the original moving violation. For the violations in our test, the court charged offenders amounts ranging from \$35 to \$140. Revenues collected by the court from moving violations reduced to parking violations were recorded as parking violation revenue and distributed to the local court funding unit.

The moving violations in our testing that were reduced to parking violations included: failure to stop in an assured distance, failure to yield the right of way, and speeding.

For the month of our testing, this court collected money from 226 violations that originated as moving violations and were reduced to nonmoving violations by the court. The court's practice of assessing fines and fees based on the original violation generated additional revenue of \$8,762 during the month of our testing for the local court funding unit. We estimated that, annually, this court's practice could generate approximately \$105,000 in additional revenue for the local court funding unit.

If the court had not reduced moving violations to nonmoving violations, we estimate that the court would have annually owed the State an additional \$65,000 for the \$24 in statutory assessments and an indeterminate amount from fines due the State and local libraries.

- b. Two district courts provided pleas under advisement programs for offenders convicted of moving violations. The offenders were given delayed convictions ranging from 6 to 12 months and required to pay "program costs" in an amount equal to the assessments, fines, fees, and costs associated with the original moving violations. The program costs collected by the courts were distributed to the local court funding unit. In addition, one of the two courts assessed a \$15 "audit fee" to participate in this program. These two courts did not collect and distribute the State's \$24 in statutory assessments.

Both courts informed us that they dismissed a conviction at the end of the 6- to 12-month grace period if the offender had not had any other convictions posted to his/her driver record. However, neither court refunded the program costs or audit fees to the offender when the conviction was dismissed. If the offender had additional convictions during the sentencing period, the courts processed the conviction.

For the month of our testing, the court collecting the \$15 audit fee collected and distributed \$23,535 to the local court funding unit from 242 moving violations. The court collected an amount equal to the \$24 in statutory

assessments but, instead of distributing it to the State, distributed it to the local court funding unit. The court's practice of collecting \$24 in statutory assessments combined with the \$15 audit fee to participate in the pleas under advisement program generated an additional \$9,438 in revenues during the month of our testing for the local court funding unit. We estimated that, annually, this court's practice could generate approximately \$113,000 in additional revenue for the local court funding unit.

If the court had not reclassified all assessments, fines, fees, and costs to program costs, we estimate that the court would have annually owed the State approximately \$71,000 for the \$24 in statutory assessments.

The second court providing a plea under advisement program distributed the "program costs" as if they were local ordinance fines with one third of the fines going to the local governmental unit and two thirds going to the local court funding unit. We determined that this court averaged 152 delayed convictions a month during 1997. If the court had not reclassified the assessments, fines, fees, and costs to program costs, we estimate that the court would have annually owed the State approximately \$44,000 for the \$24 in statutory assessments. Although the court informed us that it followed up on delayed convictions at the end of the grace period, we determined that the court had not reviewed 510 delayed convictions ranging from 1 to 13 years old.

- c. Six of the 11 district courts (including the 3 courts mentioned in items a. and b.) collected fines, fees, and costs at the beginning of the delayed sentencing period after the offender admitted responsibility. Although normally expected when a ticket is dismissed, these 6 courts did not refund the fines, fees, and costs when the convictions were later dismissed.
- d. Nine of the 11 district courts (including the 3 courts mentioned in items a. and b.) in our testing did not collect the \$25 statutory assessment from offenders charged with operating a vehicle without proof of insurance.

Section 257.328 of the *Michigan Compiled Laws* requires courts to collect a \$25 assessment and to notify the Department of State each time a court

receives a no proof of insurance citation, even if the court later receives proof of insurance from the offender. Prior to January 1996, there were statutory provisions that required the courts to waive* the fines and costs when proof of insurance was provided to the court. This waiver was repealed in 1996.

The 9 courts continued to dismiss the citations and waive the assessments for no proof of insurance. SCAO informed us that some courts did not collect the assessment because the statute was silent on how to distribute the money. Other courts informed us that they had not collected the assessment because of philosophical differences with the statute.

We were able to determine the total number of dismissed no proof of insurance citations for 2 courts in our test group. During a one-month period, these two courts dismissed a total of 144 and 42 no proof of insurance citations, respectively. We estimated that if the courts had not waived these assessments, they would have annually collected approximately \$43,200 and \$12,600, respectively, for their local court funding units.

- e. One district court allowed the local governmental units within its jurisdiction to collect their respective local ordinance fines for 14 days before forwarding the citations to the court. The court administrator informed us that the court had agreements with each of the local governmental units permitting the local units to keep 100% of the local ordinance fines collected by the local unit. By law, the local governmental units were entitled to one third of the fines and the local court funding unit should have received the remaining two thirds.

After 14 days, the local governmental units forwarded the unpaid citations to the court. When the court collected the local ordinance fines for the unpaid citations, the court correctly distributed the fines between the local governmental unit and the local court funding unit. For the month of our testing, the local units collected and kept \$22,866 in local ordinance fines. Of this amount, the local units should have distributed \$15,244 to the local court

* See glossary on page 41 for definition.

funding unit. We estimated that, annually, this practice costs the local court funding unit approximately \$183,000.

- f. One circuit court did not charge offenders convicted of criminal sexual conduct the statutorily required assessment. Since June 1994, Section 12.206 of the *Michigan Compiled Laws* has required the courts to impose a mandatory assessment of \$150 for all criminal sexual conduct convictions. The court administrator informed us that the court had plenty of criminal sexual conduct cases. However, the court administrator was not aware of a mandatory assessment for such convictions.

The Supreme Court's internal audit division audits the 241 trial courts on an intermittent basis. We reviewed the division's internal audit program and discussed the scope of its audits with the division director. The errors we identified during our testing of the collection of statutory assessments, fines, fees, and costs would not have been detected during the internal audit process because there were no audit procedures for testing the correctness of money collected by the courts.

RECOMMENDATION

We recommend that SCAO ensure that trial courts are aware of their statutory responsibilities related to the collection of statutory assessments, fines, fees, and costs due to other entities.

AGENCY PRELIMINARY RESPONSE

JUDICIARY

SCAO agreed with this recommendation. SCAO will continue to regularly inform and educate courts regarding all changes to assessments, fines, fees, and costs and their statutory responsibilities related to the collection and distribution of the appropriate amounts to all entities through SCAO publications, management assistance, and training. SCAO will monitor fee assessments and cost distributions by reviewing monthly fee transmittals. The Supreme Court's internal audit division has revised its audit program to include a review of this issue. The division has three auditors to perform audits of the 241 trial courts and 83 friend of the court offices. Without additional staff, the division can only perform intermittent reviews of selected courts' activities.

The court identified in item a. believes that its distribution of fines and costs is correct based upon amended charges occurring through plea bargaining. Both courts identified in item b. have discontinued their under advisement/audit programs. In regard to the issue identified in item c., SCAO agrees that, if the court does not enter a conviction, the court should not be collecting fines and costs. The issue identified in item d. is compounded by a lack of direction within the statute as to the recipient of the assessment. Pending legislation would clarify this and other issues related to this violation. Several of the courts identified in this report have begun collecting this fee. SCAO will continue to support the need for legislative clarification. The court identified in item e. is reviewing procedures and discussing various issues related to this practice with the cities and townships within its jurisdiction. The court identified in item f. has corrected its procedures regarding assessment of the forensic fee.

FINDING

5. Testing of the Accuracy of the Courts' Distribution of Revenues

Some courts did not accurately distribute revenues.

Eight of the 20 courts included in our testing did not correctly distribute money collected for assessments, fines, fees, and costs. We noted:

- a. One circuit court had not remitted moneys due to the State for the State Court Fund, Crime Victims Rights Fund, and the State Forensics Laboratory Fund since April 1994. The court collected money that was due and deposited it with the local court funding unit. The court administrator had regularly remitted money due to the Judges' Retirement Fund and the Legislative Retirement Fund. At the time of our testing, the circuit court owed the State approximately \$107,000 for moneys collected on behalf of the State.
- b. Three district courts had not correctly distributed money collected for civil filing fees. In 1993, the courts began collecting a new fee, which was due to the State Court Fund. These 3 courts used a systems software package developed and maintained by the same vendor. These 3 courts could not uniquely identify this fee as it was collected because of limitations with the systems package. The 3 courts collected the new fee and deposited the

money into an account which included fees collected for the Judges' Retirement Fund and the local court funding units. At the end of each month, the 3 courts continued to distribute civil filing fees based on a methodology that did not incorporate the new fee. As a result, money collected for the new fee was not distributed to the State Court Fund, but instead was remitted to the Judges' Retirement Fund and the local court funding units. We projected the total amount of overpayments and underpayments for 47 months (November 1993 through September 1997) using the actual amount of the errors from our test months. Our projected overpayments and underpayments for the 3 courts were:

	Underpaid State Court Fund	Overpaid Local Court Funding Unit	Overpaid Judges' Retirement Fund
Court A	(\$149,000)	\$ 82,000	\$ 67,000
Court B	(\$274,000)	\$151,000	\$123,000
Court C	(\$499,000)	\$274,000	\$225,000

- c. One district court improperly distributed money collected for State conviction costs. The court collected money from each conviction which was distributed to the State Court Fund, the Judges' Retirement Fund, the Legislative Retirement Fund, and the Court Equity Fund. All of the money collected for State conviction costs was deposited into one account and distributed by the clerk at the end of the month. State conviction costs due the Court Equity Fund and the Legislative Retirement Fund are reported on the same line on the monthly remittance and distributed by the Department of Treasury. State conviction costs due the State Court Fund are reported on another line on the same monthly remittance. Because of an error in the court's methodology, the court had reversed the amounts due for these two lines each month.

We recomputed the distribution for our test month and determined that the court had overpaid the State Court Fund \$408 and underpaid the Court Equity Fund and the Legislative Retirement Fund \$381 and \$27, respectively. The court administrator informed us that she had used the wrong formula for distributing the State conviction costs since the amount collected was increased in October 1993. In October 1996, the distribution was revised. We projected the total amount of overpayment and underpayments for 47

months (November 1993 through September 1997) using the actual amount of the errors from our test month. Our projected overpayments and underpayments for the three funds were:

Fund	Overstatement/ (Understatement)
State Court Fund	\$19,166
Court Equity Fund (since October 1, 1996)	(\$13,331)
State General Fund (prior to October 1, 1996)	(\$ 4,571)
Legislative Retirement Fund	(\$ 1,264)

- d. One district court improperly revised its distribution of some fines and costs associated with local ordinances. Section 600.8379 of the *Michigan Compiled Laws* requires that one third (33%) of the money collected for local ordinances be distributed to the local governmental unit that wrote the ordinance and two thirds (67%) of the money collected goes to the local court funding unit. We were informed that the court revised the distribution of some fines and costs several years ago but did not adhere to the statutorily required distribution between the local governmental unit and the local court funding unit. For the month of our testing, the local governmental units received 38% of the local ordinance revenues and the local court funding unit received 62% instead of 33% and 67%, respectively, as required by statute.
- e. Three of the courts (including the court mentioned in item c.) did not correctly distribute installment payments in accordance with statutory requirements (Section 775.22 of the *Michigan Compiled Laws*). The courts are required to distribute 50% of any installment payments collected to victim-related payments (i.e., restitution or the Crime Victims Rights Fund) until the victims' payments have been paid in full. However, these courts distributed the entire amount of individual installment payments to court costs and other assessed fees when there was an outstanding judgment for victim-related payments.

The Supreme Court's internal audit division audits the courts on an intermittent basis. We reviewed the division's internal audit program and discussed the scope of its audits with the division director. Not all of the errors we identified in reviewing

the distribution of funds would have been detected during the internal audit process because of a lack of audit procedures to determine if the courts correctly distributed the money collected.

RECOMMENDATIONS

We recommend that SCAO, in conjunction with the Supreme Court's internal auditor, develop procedures to periodically test the accuracy of the courts' distribution of revenues.

We also recommend that SCAO immediately request remittance for all past due money owed to the State.

We further recommend that SCAO provide assistance to the courts to ensure that previous underpayments and overpayments are properly remitted or refunded.

AGENCY PRELIMINARY RESPONSE

JUDICIARY

SCAO agreed with these recommendations. Audit procedures have recently been added by the Supreme Court Finance Department to test the accuracy of the courts' distribution of revenues for the trial courts and friend of the court offices. The Supreme Court internal audit division staff have performed audits of the courts where underpayments and overpayments to local and State funds were detected to determine the actual amounts of the errors. Also, SCAO has made arrangements for repayment. SCAO will continue to monitor fee assessments and distributions. The Department of Treasury is revising the monthly fee transmittal form at the request of SCAO to permit the monitoring of distributions to specific funds.

The court identified in item a. as failing to transmit money has transmitted all money due to the State. The three courts identified in item b. as incorrectly distributing civil filing fees have been contacted regarding repayment, and all have corrected their distribution process. The court identified in item c. as incorrectly distributing State conviction costs has corrected its distribution process. The court identified in item d. as incorrectly distributing ordinance fines and costs is working with its funding units to address a multitude of issues related to funding, revenue

distribution, and off-site collection alternatives. The three courts identified in item e. as incorrectly distributing installment payments have made the necessary corrections to distribute the payments correctly. Arrangements have been made with all courts that incorrectly distributed funds to redistribute funds as required.

Glossary of Acronyms and Terms

abstract	The document generated by the court and submitted to the Department of State to record convictions of Michigan Vehicle Code violations on an offender's driver record. Also, the process of recording convictions on a driver record.
Auditor General epilogue	The epilogue is intended to identify statements in agency preliminary responses which the Office of the Auditor General feels to be materially inaccurate or misleading. The absence of an epilogue in an agency preliminary response should not be construed as Office of the Auditor General agreement with the agency's position.
circuit court	The court that has original jurisdiction in all civil cases involving more than \$25,000 (increased from \$10,000 effective January 1, 1998); in all felony criminal cases; in certain serious misdemeanors; and in all domestic relations cases, such as divorce and paternity actions. Circuit courts also hear cases appealed from lower courts.
citation	A ticket issued to an offender with charges for violating a State statute or local ordinance.
civil infraction	An act, excluding criminal acts, prohibited by either State law or local ordinance.
clerk of the court	The employee whose responsibilities include all statutory or court rule requirements regarding duties of the "clerk of the court," including reporting all traffic-related convictions to the Department of State. In circuit courts, the clerk of the court is the county clerk, which is an elected position. In district courts, the clerk of the court is an employee of the court

appointed by the respective court's chief judge. In probate courts, the clerk of the court is either an employee of the court or the county clerk based upon the direction of the circuit court's chief judge.

conviction A plea of guilty, a finding of guilty, or a payment of a fine in a court of law.

delayed sentencing agreement See "plea under advisement."

dismiss The court's option of throwing out a citation for a statutory violation or local ordinance without rendering judgment. No fees, fines, or costs are assessed. There is no further obligation on the offender.

district court The court that has exclusive jurisdiction over all civil litigation up to \$25,000 (increased from \$10,000 effective January 1, 1998) and handles garnishments, eviction proceedings, land contract and mortgage foreclosures, all civil infraction violations, and other proceedings. In addition, district courts also handle both preliminary examinations in felony cases and all misdemeanors for which punishment does not exceed one year in jail. District courts include small claims divisions.

effectiveness Program success in achieving mission and goals.

efficiency Achieving the most outputs and outcomes practical for the amount of resources applied or minimizing the amount of resources required to attain a certain level of outputs or outcomes.

internal control structure The management control environment, management information system, and control policies and procedures established by management to provide reasonable

assurance that goals are met; that resources are used in compliance with laws and regulations; and that valid and reliable performance related information is obtained and reported.

local court funding unit

The statutorily designated governmental unit (county, city, township, or combination thereof) responsible for funding the costs of court operations. In most cases, the court deposits all money collected for assessments, fees, fines, and costs with the funding unit.

master driver record

A computerized record maintained by the Department of State of all Michigan licensed drivers and their motor vehicle violations and corresponding corrective actions taken by the Department.

material condition

A serious reportable condition which could impair the ability of management to operate a program in an effective and efficient manner and/or could adversely affect the opinion of an interested person concerning the effectiveness and efficiency of the program.

Michigan Vehicle Code

Sections 256.1 - 257.1877 of the *Michigan Compiled Laws*. The Code identifies statutory requirements related to driving motor vehicles, violations of these requirements, and the corresponding points when convicted of a violation.

municipal court

A court that has been established in cities to hear cases arising under city charters, ordinances, or regulations. It is not the court of record. These courts have jurisdiction over civil cases up to \$1,500, criminal and ordinance matters, and preliminary examinations in felony cases. They may provide a conciliation division for actions up to \$100 to be brought in an informal manner.

offender	The person who was charged with violating a law.
performance audit	An economy and efficiency audit or a program audit that is designed to provide an independent assessment of the performance of a governmental entity, program, activity, or function to improve public accountability and to facilitate decision making by parties responsible for overseeing or initiating corrective action.
plea under advisement	The practice in civil infraction cases of delaying sentencing for an agreed upon time period after the offender admits responsibility. Under this practice, the court agrees not to submit an abstract of the conviction (which generates points on the offender's driver record) to the Department of State. If the offender is not convicted of any additional offenses during the agreed upon time period, the citation is dismissed. Some courts use other terminology, including: "delayed sentencing agreements," "audit programs," "dismissal with costs," "diversion," "held in abeyance," "administrative review," "deferral," and "delayed sentence" to refer to this practice.
probate court	The court that has exclusive jurisdiction over juvenile proceedings and adoptions as well as supervision of the probating of wills and the administration of estates and trusts. Probate courts also hear cases pertaining to guardianships and conservatorships for minors and adults. As of January 1, 1998, the probate courts' jurisdiction is limited to wills, estates, trusts, etc., and the family divisions of circuit courts have jurisdiction over juvenile proceedings and adoptions.

reportable condition	A matter coming to the auditor's attention that, in his/her judgment, should be communicated because it represents either an opportunity for improvement or a significant deficiency in management's ability to operate a program in an effective and efficient manner.
same incident	The expression used to identify more than one Michigan Vehicle Code citation issued during one traffic stop. Only the points associated with the conviction that has the most points are posted to the individual's driver record. Other convictions are coded as "same incident" and do not include points.
SCAO	State Court Administrator's Office.
trial court	The court that has jurisdiction over specific legal matters. Trial courts include circuit, district, probate, and municipal courts.
violation	The act of breaking a law or regulation either intentionally or unintentionally.
waive	The court's decision to not assess costs associated with a conviction of a statutory or ordinance violation.